

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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STANLEY WEST MCPHERSON,

Plaintiff,

v.

3:18-cv-453  
(TJM/DEP)

TOMPKINS TRUST COMPANY, BRIAN A.  
HOWARD, MYRIAH A. MARNELL, JESSE  
TEDORA, and DEBORAH J. HOOVER,

Defendants.

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**Thomas J. McAvoy, Sr. U.S.D.J.**

**ORDER**

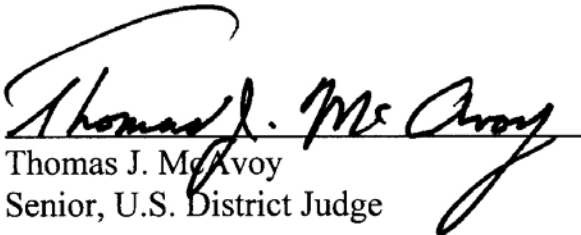
Defendants have filed a motion to dismiss in this action, which alleges that Defendants violated Plaintiff's rights under federal law when they failed to honor a promissory note he wrote to Defendant Tompkins Trust Company. See dkt. # 8. In moving to dismiss, Defendants have presented matters outside the pleadings. The Court has determined to consider those matters and hereby informs the parties that the Court will treat the motion as one or summary judgment pursuant to Rule 56. See Fed. R. Civ. P. 12(d).

The Court therefore orders the parties to supplement their briefing with all material pertinent to a motion for summary judgment. Defendants shall supplement their brief and provide a Statement of Material Facts as required by Local Rule 7.1(a)(3) within fourteen (14) days of the date of this Order. Plaintiff shall respond to Defendants' supplemental



brief and Statement of Material Facts within fourteen (14) days of the date of the Defendants' filing. No reply brief will be permitted. Plaintiff is reminded that "[t]he Court shall deem admitted any properly supported facts set forth in the Statement of Material Facts that the opposing party does not specifically controvert." L.R. 7.1(a)(3)(emphasis in original). Plaintiff is also reminded that a failure to respond to the motion may result in the Court concluding that he concedes the Defendants' argument.

**IT IS SO ORDERED**

  
Thomas J. McAvoy  
Senior, U.S. District Judge

Dated: October 1, 2018